No. 91-4

FILED
JUN 1 1992
OFFICE OF THE CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1991

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL NO. 12, AFL-CIO, PETITIONER

v.

CARROLL WILSON, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE

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QUESTION PRESENTED

Whether a state tort claim for damages alleging that a union fraudulently induced an employer to enter into a collective bargaining agreement is preempted by Section 301 of the Labor Management Relations Act, 29 U.S.C. 185.

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This brief is submitted in response to the Court's invitation to the Solicitor General to express the views of the United States.

STATEMENT

Through fraudulent representations, the International Union of Operating Engineers, Local 12 (the Union) secured a collective bargaining agreement with respondent Wilson Equipment Co. This case concerns the remedies available to redress that fraud.

1. Respondent Carroll Wilson, a co-owner of Wilson Equipment Co., received permission from a general contractor to remove dirt from a construction site. Pet. App. 3a. When Wilson began to remove the dirt, he was approached by Hoss Kinsey, a business agent of the Union. *Ibid.* Kinsey obtained Wilson's signature on a collective bargaining agreement with the Union in the

following manner; Kinsey told Wilson that "everyone working at the jobsite had to be 'union', and that Wilson could not continue removing the dirt unless he signed certain forms." *Ibid.* This statement was false. The Union representative knew that Wilson did not have to sign the forms in order to remove the dirt. *Ibid.*

Instead of reading the forms that Kinsey requested him to sign, however, Wilson asked Kinsey if signing the forms would change his status with the Union. Pet. App. 3a. Wilson was a member of the Union, but his company employed non-union labor. Kinsey responded with a second false statement. He represented that the forms would not change Wilson's status with the Union. *Ibid.* In reliance on these statements (*id.* at 5a), Wilson signed the forms on the hood of a car without reading them. *Id.* at 3a.

What Wilson did not know was this: The document he signed was a collective bargaining agreement entitled "Owner-Operator Short Form Collective Bargaining Agreement with [the Union]." Reply Br. 1-2. The agreement fundamentally altered Wilson's obligations to the Union. The agreement required the owner-operator to pay employees union wages and to make payments on their behalf to four union-management benefit trust funds (the Trusts). Pet. App. 3a-4a. At the time Wilson signed the agreement, his company had three employees who were not represented by the Union, but who were required, under the terms of the agreement, to be paid union wages. *Id.* at 3a.

When Wilson discovered what had transpired, he promptly notified the Trusts and the Union that the agreement was "void *ab initio* because of fraud." Pet. App. 31a. Wilson refused to make trust fund payments as required by the agreement. *Id.* at 4a.

2. Seeking recovery of required contributions, the Trusts sued respondents [1] in federal district court under

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[1] Respondents are Carroll Wilson, his wife Patricia Wilson, and their joint partnership, Wilson Equipment.

Section 301(a) of the Labor Management Relations Act, 29 U.S.C. 185(a) (LMRA) and Section 502 of the Employment Retirement Income Security Act of 1974, 29 U.S.C. 1132 (ERISA). Respondents interposed an affirmative defense of fraudulent inducement. In addition, respondents filed a third-party complaint against the Union that included tort claims under California law. Pet. App. 4a. The complaint sought compensatory and punitive damages arising out of the Union's fraudulent conduct. *Id.* at 22a.

Prior to trial, the Union sought dismissal of the state law fraud claims on grounds of federal labor law preemption. The district court determined that the claim for "fraud in the inducement" was not preempted by federal law, but that the claim for "fraud in the execution" was preempted. Pet. App. 4a. Under this analysis, the court held that respondents' state law action for fraud could proceed to the extent that it was based upon the Union's representation that execution of the forms was required to perform work on the project site (fraud in the inducement), but that the action could not be based upon the other misrepresentation concerning Wilson's status with the Union (fraud in the execution). The court nevertheless permitted this claim for "fraud in the execution" to proceed to trial as a federal claim under Section 301. The court further found that the state law claim was the proper subject of pendent federal jurisdiction. Pet. App. 4a.

After a jury trial, respondents prevailed on all claims. The jury answered special interrogatories establishing that the Union representative's statements were intentionally false; that Wilson had justifiably relied upon those statements in signing the forms presented to him; and that Wilson had suffered $200,000 in damages for "lost time" and "emotional distress" as a result of the Union's fraud. Pet. App. 5a. The jury declined to award punitive damages. *Id.* at 22a. The district court accordingly entered judgment in favor of respondents on the Trusts' claim for contributions; entered judgment against the Union in the

amount of $200,000 on respondents' state law claim for fraud; awarded respondents rescission of the contract in the Section 301 action for fraud in the execution; and entered a separate award of attorneys' fees against the Union and the Trusts in the amount of $137,600. Pet. App. 5a-6a, 26a-33a.[2]

3. The Trusts did not appeal. For its part, the Union appealed from the district court's award of $200,000 for lost time and emotional distress under California tort law. Pet. App. 6a. The Union asserted that the claim was preempted under federal labor law. The Ninth Circuit, with one judge dissenting, upheld the award. *Id.* at 12a.

a. Relying on *Lingle* v. *Norge Div. of Magic Chef, Inc.*, 486 U.S. 399 (1988), the court of appeals determined that the state law "fraud in the inducement [claim] was not preempted by section 301 because it did not require reference to the owner-operator agreement signed by Wilson." Pet. App. 7a. The court reasoned that *Lingle* precludes preemption if the elements of the state cause of action can be established without "interpretation" of the terms of the collective bargaining agreement. *Ibid.* Applying that test, the court found that the terms of the collective bargaining agreement at issue were irrelevant to proof of the elements of the state law fraud claim: "(1) misrepresentation; (2) knowledge of falsity; (3) intent to defraud, i.e. to induce reliance; (4) justifiable reliance; and (5) resulting damage." *Ibid.*

The court of appeals rejected the Union's claim that preemption was required by its prior decision in *Rozay's Transfer* v. *Local Freight Drivers, Local 208* (*Rozay's II*), 850 F.2d 1321 (9th Cir. 1988), cert. denied, 490 U.S. 1030 (1989). In *Rozay's II*, the court held that Section 301 conferred jurisdiction on federal courts to entertain an employer's federal common law claim for rescission

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[2] The fee award against the Trusts was based upon statutory authority under ERISA, 29 U.S.C. 1132(g)(1); fees were awarded against the Union as consequential damages for the fraud. Pet. App. 6a n.1, 27a-28a.

against a union for fraudulently inducing it to sign a collective bargaining agreement. The *Rozay's II* court reasoned that Section 301 is not limited to suits based upon a breach of a collective agreement, but also extends to "suits impugning the existence and validity of a labor agreement." Pet. App. 9a.[3] In the present case, however, the court found that *Lingle* would permit a state law fraud action parallel to the federal common law action recognized in *Rozay's II*—despite a potential for inconsistent results—because resolution of the state claim did not require interpretation of the labor agreement. Pet. App. 9a-10a.

b. The court of appeals also held that the state claim was not preempted under *San Diego Bldg. Trades Council* v. *Garmon*, 359 U.S. 236 (1959). The court recognized that *Garmon* requires preemption of any state claim based upon conduct that is "arguably" subject to the National Labor Relations Board's exclusive jurisdiction over labor-management disputes regulated by the Act. The court found that the dispute in issue was not "arguably" regulated by the Act because the Union could not demonstrate that its "case is one that the [NLRB] could legally decide in [its] favor." Pet. App. 10a, quoting *International Longshoremen's Ass'n* v. *Davis*, 476 U.S. 380, 395 (1986).

The court premised this determination on two findings. First, the court held that the Union's conduct was not "arguably" an unfair labor practice regulated by Section 8(b) of the National Labor Relations Act, 29 U.S.C. 158(b). Although Section 8(b)(3) regulates a union's obligations to "bargain collectively with an employer, provided it is the representative of his employees," the court found this section inapplicable. Pet. App. 12a. The court reasoned

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[3] In *Rozay's II*, the court held that rescission and indemnification were appropriate remedies for a finding of fraud in the inducement in a Section 301 action brought by an employer against the union that signed the contract.

thus: it is undisputed that the Union did not represent Wilson's employees, and "[t]he facts here fail to reveal that Wilson and Kinsey were 'bargaining' prior to Wilson signing the agreement on the hood of Kinsey's car." *Id.* at 11a.

Second, the court held that the conduct was not subject to the Board's jurisdiction under Section 8(f), 29 U.S.C. 158(f), of the NLRA. Pet. App. 11a. Under Section 8(f), unions and employers in the construction industry are permitted to negotiate an agreement that requires employees who wish to work on the construction site to be covered by a union agreement. These agreements are referred to as "pre-hire contracts." The court determined that the agreement's "plain language does not support a characterization as a pre-hire contract." Pet. App. 11a. The court therefore held that the agreement was not subject to regulation under the Act. *Ibid.*

c. Judge Canby dissented. Pet. App. 12a-16a. He concluded that the state law fraud claim was preempted under Section 301 because the availability of the damages sought by respondents depended "upon the *invalidity* of the collective bargaining agreement that Carroll Wilson signed." Pet. App. 13a. In the dissent's view, respondents' "distress * * * followed from the claims and entanglements arising from the agreement itself—the claims by the trusts, the necessity of defending them, and the threat of financial liability. If the agreement was valid, that distress is not compensable." *Id.* at 14a.

Judge Canby agreed with the formulation that "*Lingle* establishes that a state claim is not independent" of the collective bargaining agreement "when it requires construction" of the agreement, but he concluded that this test was satisfied here. Pet. App. 14a. "To hold that a collective bargaining agreement means nothing—that it is invalid—is the most radical form of construction." *Ibid.* Judge Canby concluded that "the entire state-law claim

depends upon an implicit threshold determination that the collective bargaining agreement signed by Carroll Wilson was invalid." *Id.* at 15a-16a. In his view, "such a determination may only be made as a matter of federal law," and this conclusion required preemption of the state claim. *Id.* at 16a.

DISCUSSION

The nature of the remedies available under Section 301 for fraudulent inducement of a collective bargaining agreement represents an important and recurring question. In our judgment, however, the sole issue presented by this petition—whether state remedies for fraudulent inducement are preempted—does not warrant review. This is a novel issue as to which there is no disagreement among the courts of appeals. Although we do not believe that the court of appeals properly analyzed the issue presented, we are of the view that it is unnecessary for this Court to determine whether the state law claim for damages was preempted on the highly unusual facts of this case.

1. Claims of fraudulent inducement in the collective bargaining process have typically raised several interrelated issues under Section 301 of the Labor Management Relations Act (LMRA) and the *Garmon* preemption doctrine of the National Labor Relations Act (NLRA). See *San Diego Bldg. Trades Council* v. *Garmon*, 359 U.S. 236 (1959). The process of collective bargaining between an employer and a union representing its employees is regulated through the unfair labor practice jurisdiction of the Board under Section 8 of the NLRA, and *Garmon* provides that conduct that is "arguably" regulated by the NLRA falls within the Board's exclusive jurisdiction. 359 U.S. at 245. Section 301 of the LMRA, on the other hand, vests federal courts with jurisdiction to adjudicate "[s]uits for violation of contracts between an employer and a labor organization." 29 U.S.C. 185.

a. In light of this legal framework, an employer's claim that it has been fraudulently induced to enter into a collective bargaining agreement raises the following issues concerning the proper remedy: (1) whether *Garmon* precludes either state or federal court adjudication of a claim based upon wrongful inducement in the collective bargaining process; (2) whether a federal court has jurisdiction under Section 301 over an employer's claim of fraudulent inducement, even though the claim does not literally represent a "suit for violation of [a] contract"; (3) if federal courts have jurisdiction over such claims under Section 301, what are the standards for liability and the permissible remedies (such as rescission, restitution, or compensatory or punitive damages); and (4) whether Section 301 preempts a state tort claim for fraud that occurs in the negotiation of the collective bargaining agreement.

In this case, only the fourth issue is presented. Petitioner does not challenge the court of appeals' conclusion that respondents' state law fraud claim was not preempted by *Garmon*. The parties also accept the district court's finding—which was not at issue in the court of appeals—that attorneys' fees and rescission of the agreement were properly awarded under Section 301. The sole issue, then, is whether the $200,000 award for emotional distress and lost time under state law is preempted by Section 301.

b. To our knowledge, no other court of appeals has addressed the question whether Section 301 preempts a state law tort action for fraudulent inducement. Petitioner does not contend otherwise. Instead, petitioner premises its request for review on the contention that a conflict exists in the circuits on a related issue: whether Section 301 provides federal jurisdiction to entertain a claim by an employer seeking to invalidate a collective bargaining agreement on grounds of fraudulent inducement.[4] Pet. 9-12.

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[4] The Ninth Circuit and four other courts of appeals have held that Section 301 encompasses claims of contract invalidity. See

In a brief amicus curiae filed with this Court in *Local Freight Drivers, Local 208* v. *Rozay's Transfer*, No. 88-535, the United States agreed with the position of the Ninth Circuit in *Rozay's II* (which the court in this case did not question), that Section 301 creates jurisdiction for such claims. As we explained in our brief, at 11 (footnotes omitted):

> Fraud in the inducement is a traditional contractual defense that can be interposed in a Section 301(a) action for breach of a collective bargaining agreement. When such a defense is raised, its validity is determined by reference to federal common law. If a purpose of Section 301(a) is to provide a uniform body of federal law that is consistently applicable to "disputes arising out of labor contracts" (*Allis-Chalmers Corp.*, 471 U.S. [202,] 209) [(1985)], that section must also apply to suits seeking to invalidate contracts on the same ground. Any different result would mean that the forum for the dispute, and possibly the applicable law, would depend on which of the parties to a collective agreement was at the top of the caption in a case in which fraud was the decisive issue.

Review of the decision below does not present an appropriate occasion to resolve the issue in *Rozay's II*, how-

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Rozay's II, *supra*; *IBEW, Local 481* v. *Sign-Craft, Inc.*, 864 F.2d 499 (7th Cir. 1988); *Mack Trucks, Inc.* v. *International Union, UAW*, 856 F.2d 579 (3d Cir. 1988); *McNally Pittsburgh, Inc.* v. *International Iron Workers*, 812 F.2d 615, 618-619 (10th Cir. 1987); *Board of Trustees* v. *Universal Enterprises, Inc.*, 751 F.2d 1177, 1184 (11th Cir. 1985). See also *United Steelworkers of America* v. *Rome Indus., Inc.*, 437 F.2d 881, 882 (5th Cir. 1970) (Section 301 jurisdiction over union claim for enforcement of unexecuted contract). The Sixth and Fourth Circuits, on the other hand, hold that there is no cause of action under Section 301 for these claims. *Heussner* v. *National Gypsum Co.*, 887 F.2d 672, 676 (6th Cir. 1989); *A.T. Massey Coal Co.* v. *International Union, UMW*, 799 F.2d 142 (4th Cir. 1986), cert. denied, 481 U.S. 1033 (1987). See also *Hernandez* v. *National Packing Co.*, 455 F.2d 1252 (1st Cir. 1972) (no jurisdiction under Section 301 where contract is claimed to be invalid because union had lost majority support of unit employees).

ever, because the question whether Section 301 creates an affirmative federal remedy for fraudulent inducement is simply not presented. That question was neither briefed nor argued on appeal. See Resp. Opp. 6 ("All parties assumed that § 301 provides subject matter jurisdiction to decide the validity or existence of a collective bargaining agreement."). Further, if certiorari were granted, neither party would have an appropriate incentive for advocating the position—adopted by some of the circuits —that Section 301 does not create a cause of action for rescission of a contract based upon fraudulent inducement. Respondents prevailed on a Section 301 claim in the district court, and petitioners agree that such a remedy is appropriate under Section 301.

c. We also do not believe that the Section 301 preexemption issue is likely to be dispositive in many future cases. Rather, we believe that the availability of a state law damage claim for fraud in the collective bargaining process will ordinarily be foreclosed by application of the *Garmon* doctrine.

Although the court of appeals in this case found that *Garmon* did not preempt respondents' state law claim—a decision that petitioner does not challenge—it did so based upon the unusual facts presented. *Garmon* preempts state claims based upon conduct that is "arguably" subject to regulation by the NLRB. The court of appeals therefore acknowledged (Pet. App. 12a n.5) that *Garmon* would normally preempt the state fraud claim at issue because a union's fraudulent conduct in the course of contract negotiations with an employer is regulated by the NLRB and is subject to its exclusive jurisdiction. See *Parker* v. *Connors Steel Co.*, 855 F.2d 1510, 1516-1518 (11th Cir. 1988), cert. denied, 490 U.S. 1066 (1989); *Serrano* v. *Jones & Laughlin Steel Co.*, 790 F.2d 1279, 1286-1287 (6th Cir. 1986). Here, however, the court reached a different result, because the Union did not represent the company's employees, and the facts "fail[ed]

to reveal that Wilson and Kinsey were 'bargainng' prior to Wilson signing the agreement on the hood of Kinsey's car." Pet. App. 11a; *id.* at 12a.

There is no reason to believe that this highly peculiar fact pattern is likely to recur with any frequency, as evidenced by the paucity of similar reported cases. We therefore see little need to grant certiorari to determine whether Section 301 requires preemption of a state law claim for fraud in the unusual circumstances where *Garmon* preemption is not applicable.

3. In light of these considerations, it is our view that a grant of certiorari in this case is unwarranted. At the same time, however, we believe that the court of appeals erred in its analysis of the Section 301 preemption issue.

a. In *Local 174 Teamsters* v. *Lucas Flour Co.*, 369 U.S. 95 (1962) and *Avco Corp.* v. *Aero Lodge No. 735, Int'l Ass'n of Machinists*, 390 U.S. 557 (1968), this Court held that the state law of contracts is completely preempted by Section 301. Section 301 provides the exclusive cause of action for contract claims based on collective bargaining agreements. Those claims must be resolved under federal law.

In *Allis-Chalmers Corp.* v. *Lueck*, 471 U.S. 202 (1985) and *United Steelworkers* v. *Rawson*, 495 U.S. 362 (1990), the preemptive scope of Section 301 was further extended to tort claims premised upon inadequate performance of a duty imposed by a collective bargaining agreement. In *Lingle*, however, the Court emphasized that Section 301 preemption of state tort claims is limited. Section 301 does not preempt parallel state tort remedies predicated upon a duty or standard of conduct not imposed by a collective bargaining agreement, because, in those cases, interpretation of the agreement is not required. 486 U.S. at 413.

b. In applying these precedents, the court of appeals correctly concluded that it must first look to the elements of the state tort claim brought against a party to a col-

lective bargaining agreement. Pet. App. 7a; *Lingle*, 486 U.S. at 407. The court was also correct in concluding that proof of the tort of intentional fraud under California law did not require interpretation of any *term* of the collective bargaining agreement on the facts presented.[5] Pet. App. 7a-8a.

We do not share the panel's view, however, that the preemption inquiry ended there. The court appears to have assumed that preemption is only triggered by the necessity for interpreting a *term* of the contract. Pet. App. 7a. The court did not address the dissent's contention (*id.* at 13a) that, even though proof of the claim did not require interpretation of the specific terms of the agreement, it nevertheless did turn on proof that the contract was invalid and unenforceable. The majority appears to have concluded that *Lingle* only requires application of uniform federal law to issues of contract interpretation, not to issues of contract formation. *Id.* at 9a-10a.

We disagree. In our view, the question whether a valid and binding contract was formed must be governed by federal law; the court of appeals accordingly should have determined whether the validity of the contract was placed in issue by the state tort claim in a manner that would require preemption.

c. This Court's Section 301 precedents require development and application of a uniform body of federal contract law governing collective bargaining agreements. We understand these precedents to extend to issues of contract formation as well as contract "interpretation."

By its terms, Section 301 requires federal courts to adjudicate suits "for violation of contracts." In a case such as this, where Union Trusts sue an employer who has failed to make payments due under a contract and

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[5] The court did not examine the elements of the state tort of negligent misrepresentation. The judge instructed the jury on the elements of this tort as well (Pet. App. 20a), but the jury found that the conduct was intentional. *Ibid.* The court of appeals was thus not required to determine whether the negligent misrepresentation claim was preempted.

the employer interposes a defense of fraudulent inducement, a court must determine whether a valid and binding contract was formed in order to determine whether the employer has "violat[ed]" the contract. It would make little sense to conclude that federal law governs the question whether a term of the contract was "violated", but not the question whether a valid and enforceable contract exists.

This Court's precedents fully support the conclusion that issues of contract formation and enforceability must be governed by federal law. Although *Lingle* does not require that all issues of *tort* law affecting relations under a collective bargaining agreement be determined under federal law, it clearly does carry forward the requirement established in *Lucas Flour* that all issues of *contract* law must be decided under federal law. 486 U.S. at 413 n.12. The legal standards governing the formation of contracts, including standards for voiding a contract on grounds of fraud, are very much a part of the substantive body of contract law. Cf. *Kossick* v. *United Fruit Co.*, 365 U.S. 731 (1961) (finding that a state statute of frauds invalidating oral contracts was preempted by the federal common law governing admiralty contracts).

It exalts "form over substance," *Allis-Chalmers Corp.* v. *Lueck*, 471 U.S. at 211, to read *Lingle* as limiting the scope of preemption to state claims that are dependent upon the interpretation of some particular *term* of a contract. To be sure, in evaluating the preemption issue, the Court in *Lingle* focused at one point on whether resolution of the state claim "turn[ed] on the meaning of any *provision* of a collective-bargaining agreement" (emphasis added). However, the Court also stated that whether a claim is "independent" of the agreement for Section 301 preemption purposes depends on whether "resolution of the state-law claim * * * [requires] construing the collective bargaining agreement." 486 U.S. at 407. If resolution of a fraud claim turns on or determines the validity of the collective bargaining agreement in its entirety, then it surely involves contract "construction."

Moreover, the use of a single legal standard governing the validity of contracts is no less important to "interpretative uniformity and predictability" of the law governing collective bargaining agreements than is the use of a single standard to fix the meaning of discrete contract terms. The congressional concern animating Section 301 —that a uniform body of federal law "be used to address disputes arising out of labor contracts" (*Lueck*, 471 U.S. at 209)—applies with equal force whether the issue is the meaning of particular contract terms or the validity of the contract itself.

This case illustrates the potential for disuniformity on the question of contract validity. The jury was charged that it could find fraudulent inducement under California law if the misrepresentations were negligent (Pet. App. 20a-21a), but that it could only find fraudulent inducement under federal law if the misrepresentations were intentional. *Id.* at 24a. Although the jury ultimately determined that the misrepresentations were intentional (*id.* at 4a-5a), the instructions would have permitted the jury to determine that the same statements constituted fraud sufficient to invalidate the contract under state law but not under Section 301.

Although *Lingle* tolerates potentially inconsistent factual determinations in state and federal proceedings, 486 U.S. at 408-410, it does not tolerate disuniformity in the legal standards governing contract construction. *Id.* at 409. It is therefore consistent with *Lingle* to conclude that Section 301 requires that issues concerning the validity of labor contracts be determined under federal law.

d. Even though the court of appeals did not recognize that issues of contract formation and enforceability must be resolved under uniform federal law, we do not believe that it is necessary for this Court to grant review to rearticulate and apply that principle. First, the question whether resolution of the state law claim here would

"turn on" (*Lingle*, 486 U.S. at 407) or determine the enforceability of the collective bargaining agreement depends upon the proper construction of California law and an analysis of the specific factual claims asserted.[6]

Second, even if the dissent correctly concluded that proof of the claim here turned on whether the contract was valid and enforceable, it does not necessarily follow that the court of appeals erred by finding that the state fraud cause of action was not preempted in its entirety. *Lingle* indicates that in some circumstances the need for uniform contract law under Section 301 is satisfied by a more limited form of preemption that permits the state tort action to proceed, subject to the requirement that the contract issue be determined under federal law. See *Lingle*, 486 U.S. at 413 n.12 (noting that some state law claims that "depend for [their] resolution upon both the interpretation of a collective-bargaining agreement and a

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[6] Judge Canby concluded that, under state law, respondents' claim did turn on the question of whether the contract was valid and enforceable. Damages are an element of the tort of fraud, and he reasoned that the specific damages sought in this case—lost time and emotional distress sustained in defending against the Trusts' efforts to enforce the contract—were only compensable under state law if the collective bargaining agreement was invalid and unenforceable as a matter of contract law. However, Judge Canby recognized that this would be a different case if the claim for damages did not depend on the validity of the contract. See Pet. App. 14a.

State law claims based upon fraudulent inducement may have an effect on contract validity in a number of ways. For example, a claim that seeks rescission or a declaration of invalidity on grounds of fraud would, in our view, be totally preempted. In awarding these remedies, the court makes a direct determination of contract validity, and thus decides an issue of contract law that should be governed exclusively by Section 301. A state fraud claim that could result in a decision rendering a contract "voidable" may also be preempted by federal law to the extent that it alters the legal status of the contract. Finally, if a collective bargaining agreement is held *valid* under the federal contract standards governing fraudulent inducement, Section 301 would likely bar any award of damages for fraudulent inducement under state tort law.

separate state law analysis" are not preempted, although "federal law would govern the interpretation of the agreement").

In this case, the court found that the contract was invalid and unenforceable under *federal* law by virtue of its resolution of respondents' Section 301 claim for rescission. Pet. App. 2a, 30a-33a. It is, accordingly, unclear whether complete preemption of the state tort claim would be required under these circumstances. When a contract has been declared void under Section 301 because of fraudulent inducement, no consensual remedy for damages is available, and the uniformity of federal contract law under Section 301 may not be impaired by permitting state tort law to provide compensation for personal injuries occasioned by fraudulent conduct.[7] The court of appeals therefore might have found insufficient justification under this Court's precedents for overriding the State's interest in providing compensation to citizens injured by intentionally tortious activity in these circumstances. See, *Lingle*, 486 U.S. at 413 n.12 (indicating that a state tort action is not preempted if proof of the amount of damages requires interpretation of a collective bargaining agreement); *Allis-Chalmers*, 471 U.S. at 212 (stating that Section 301 does not preempt "state rules that proscribe conduct, or establish rights and obligations independent of a labor contract"). Cf. *Farmer* v. *Carpenters*, 430 U.S. 290 (1977) (no *Garmon* preemption of a union member's action for intentional infliction of emotional distress against a union where the claim could be resolved independent of employment discrimination issues within the coverage of the NLRA). However, we do not here purport to resolve the question whether state

[7] Courts have found that Section 301 law permits the award of some types of damages arising out of fraudulent inducement under contract principles. See, *e.g.*, Pet. App. 27a. It would not appear that the common law of contracts under Section 301 could properly be construed to permit recovery of damages for personal injury, such as emotional distress, however. Thus, the tort remedy sought in this case is not merely duplicative of a Section 301 remedy.

tort damages are available when a contract has been fraudulently induced under the standard established by the federal common law.

In sum, even if the court of appeals erred in its analysis of the law or its ultimate conclusion, we do not think that, in light of the unusual facts and circumstances of this case, the decision poses a serious threat to the federal interest in uniform rules governing the formation of valid collective bargaining agreements.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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JUNE 1992

☆ U. S. GOVERNMENT PRINTING OFFICE: 1992 312324 45448